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The History of the Stream Preservation Movement in Arkansas

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CONSERVATION

THE HISTORY OF THE STREAM PRESERVATION MOVEMENT
IN ARKANSAS

Presented to Dr. Joe Nix

In Fullfilment Of

H-493 Honors Special Studies

Rex M. Terry

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PREFACE

The history of Arkansas' Stream Preservation movement is not a long one, because only in the recent past have Arkansans taken a serious look at the long term effects of such things as damming streams and clearing land.

The core of the movement for stream preservation centers around the Buffalo River, in the Northwest Arkansas Ozarks. Because of this, the bulk of this paper will be devoted to the Buffalo.

THE HISTORY OF THE STREAM PRESERVATION MOVEMENT IN ARKANSAS

The original plans to dam the Buffalo River date back to 1931, when the U. S. Army Corps of Engineers began to cast a wishful eye at the Buffalo as a possible large reservoir. But these plans did not materialize, partly because there was not enough money available and there were other dams for which more cogent cases could be made. However, this initial try did not end the Corps' hopes for a dam.¹

In 1937, another study was submitted by the Engineers. This time it was a flood control plan for the Ohio and lower Mississippi Rivers, which included a recommendation from the chief of engineers that six dams be built in the White River Basin for flood control--including one at Lone Rock, on the Buffalo. This time, Congress authorized the construction of the Lone Rock Dam in the Flood Control Act of 1938. However, even though the dam was authorized, sufficient finances could not be obtained. Much later, when Congress finally appropriated the money, President Eisenhower used his veto power on two different occasions.²

After two more reports by the Corps, in 1958, the Senate Public Works Committee called for the Engineers to make still another study and decide whether the "authorized" dam at Lone Rock should be modified to include power generation, and whether a dam should be built 59 miles up river, near Gilbert. This study wasn't complete until 1964, and it was during this time

that the initial controversy over the Buffalo River came into existence.³

Some of the leading citizens of Marshall, Arkansas (population, 1,095), decided that the Buffalo should be dammed. They had long been watching Mountain Home and other towns prosper in the wake of Norfork Dam and decided that there was no reason why they could not do the same. This was in May of 1961. James Tudor, publisher of the Mountain Wave, and Gibson L. Walsh, an abstractor took the initiative and formed the Buffalo River Improvement Association. The sole purpose of this group was to do everything in its power to obtain the dams on the Buffalo--multiple-purpose dams at Lone Rock and Gilbert.⁴

By 1962, this group met with some stiff opposition. Landowners along the Buffalo labeled them as "'outsiders,'" and they found that their neighboring towns were not exactly sympathetic to the idea of a dam.

Opposition to the dam began to organize. In the early part of 1962, the Buffalo River Landowners Association was founded to oppose the dams. The organization that proved to be the more powerful was the Ozark Society, founded that same year mainly for the purpose of saving the Buffalo.

However, this early in the race to save the Buffalo, public opinion was not solidified. Even the major newspapers of Arkansas failed to take a clear-cut stand on the river's controversy. But in May of 1962, U. S. Supreme Court Justice William O. Douglas provided perhaps the most unifying factor in forming opinions favorable to the preservation of the Buffalo.

Justice Douglas had seen a full-color picture of the Buffalo in Time magazine in 1961 and had been interested in floating the river. The Ozark Wilderness Waterways Club, organized at Kansas City in 1956, invited Justice Douglas to make the trip to Northwest Arkansas and to see the Buffalo by canoe.

Justice Douglas was very impressed with the wild Ozark stream--so impressed, in fact, that when queried as to what interested persons could do to save America's quickly disappearing natural streams, he replied, "'Citizens should unite in organized resistance and insist that their congressional representatives block construction of unneeded dams.'" Douglas added that, "'The scenery is magnificent. The Buffalo is one of the most beautiful rivers I've seen anywhere . . . This river is a heritage worth fighting to the death to preserve.'"

The battleground, then, was established for the precedent-setting fight to save the Buffalo River.

In November of 1964, the Army Engineers finally unveiled their plans for a dam on the River. They recommended only the one dam at Gilbert, justified on the grounds of flood control and power generation. There is some reason to believe that the Corps altered their plans when they were faced with organized opposition.

Another area of opposition faced by the Engineers was from the National Park Service. In May of 1963, the Park Service had brought forth a proposal to make the Buffalo a National River. In summary, the Park Service report states that "'...the building of either the Lone Rock or Gilbert dams, or both, would so change the character of the Buffalo that it would no longer be a nationally significant free-flowing river.'"

A study prepared by the University of Arkansas for the Park Service on the economic impact projects that by 1972 (in the event the Park Service Proposal is accepted and the Buffalo does become a National River), tourist spending in the Buffalo River area would level off to thirty-four million dollars annually.⁷ The National River would also create 1,500 non-farm jobs. This would certainly help the people of Marshall and others who advocate the dam on the grounds of monetary value. The National River would require about ten million dollars to put in operation, the study indicates, while the Corps of Engineers projected the cost of the dam at fifty-five million dollars.⁸

The River, in 1964, was left with three possibilities: The Engineers could dam it, destroying at least in part, its wilderness value. The Park Service could turn it into a national river and the river could be preserved. Or, there could be no government intervention which would open the door for private developers and land speculators.

After all of the economic impact statements are made, and the conservationist groups are heard, in the end, politicians are the ones who make the decisions that affect our natural resources. It is almost a rule-of-thumb that a dam will not be built in a certain state if the governor of that state is not in favor of it. Perhaps the most significant step in saving the Buffalo from becoming just another reservoir was taken by the former governor of Arkansas, Orval E. Faubus.

Governor Faubus, after hearing both sides of the controversy, decided to take a definite stand. In December of 1965, he drafted a letter to General William F. Cassidy, chief of the U. S. Army

Corps of Engineers. Faubus made a clear-cut synopsis of his views on the proposed dam on the Buffalo. He informed Cassidy that, in his opinion, the dam was not needed for flood control or as a source of hydro-electric power. He also touched on the intangible values of a free-flowing stream: "'Next to God's promise to man of the salvation of his soul, the greatest force for good is man's capacity to enjoy and be inspired by the unspoiled beauty of God's creation.''" Faubus made it clear that he was in favor of a national river proposal and not of the dam. It was because of the governor's stand that the dam was blocked at that particular time.

Mr. Faubus did not stop here, however. His next step was to appoint a group dedicated to the preservation of Arkansas' free-flowing streams. In 1967, the State Committee on Stream Preservation was established by legislative act. This Committee was composed of citizen members appointed by the governor for one to three year terms on a rotation basis. It was charged with the responsibility of making surveys to locate streams which should be preserved, evaluating these streams to identify their characteristics, preparing a comprehensive report, and recommending courses of action to preserve some of these waterways for their recreational and other values.¹⁰ The Stream Preservation Committee chose five streams for study--the Buffalo, the Mulberry, the Kings, and the Eleven Point Rivers, and Big Piney Creek.

In February of 1968, a controversy arose over the Saline River in Saline County. State Senator Virgil Fletcher of Benton asked before the Senate why the Saline River was included in a list of streams being considered for preservation. He said that before

the committee was formed he had asked Senator Oscar Alagood of Little Rock, who sponsored the bill to create the Committee, if the Saline River was included and that Alagood had said it was not. Senator Fletcher remarked that for twenty years his district had been trying to obtain a dam on the Saline River, which would be blocked if the river were selected for the program. Senator Alagood apologized to the Senate for having sponsored the bill and said the Committee included the Saline River without his knowledge. He went on to say that he favored seeing the Committee abolished.¹¹

Actually, the Saline River had been included in a list of streams being considered for study. Mrs. Howard Stern of Pine Bluff, secretary of the Committee, said there was nothing significant about the list. 'Since the Committee is charged with studying the free-flowing streams in the state,' she said, 'naturally we drew up a list of them.'¹²

By 1969, the report of the State Committee on Stream Preservation was completed. The committee had completed their study of the five designated streams, with some aid from the Arkansas Planning Commission. For the most part, the members contributed their time and help in conducting surveys and making other valuable contributions. The Committee had prepared legislation recommending inclusion of these aforementioned streams in a State System of Scenic Rivers.

In spite of controversy over the Saline, Senator Alagood introduced the first piece of legislation drawn up by the Committee. This original legislation, introduced in 1969, proposed that the state acquire easements to protect the streams, their scenic qual-

ities, and recreational potentials. This bill named the five streams that were initially studied. The bill was released from its committee but was never called up for a vote during the legislative session.

The Stream Preservation Committee met later that year to decide their next step. They advised their chairman, Dr. Joe Nix, to request the Governor (Rockefeller) to include a Scenic Rivers Bill in his call for a special session of the Arkansas Legislature.¹³

Governor Rockefeller did include a Scenic Rivers Bill in his call for a special session. So the Committee wrote a new version of the Bill in hopes that it would be more palatable to both the legislature and the opponents of the last bill proposed. Senator W. D. Moore of El Dorado introduced this bill to the Senate. In the closing days of the session, a heated rush was put on the legislature by the Carroll County Cattlemen's Association in an attempt to block the bill. Governor Rockefeller, trying to salvage some of his other requests in the session, asked the sponsors of the bill to withdraw it, and they complied.

Another controversy of the stream preservation movement is that of the Cossatot River. Gillham Dam would be built on the Cossatot northeast of DeQueen. The Corps of Engineers have said that seventy percent of the benefits would be for flood control purposes, twenty-two percent for water supply storage, seven percent for water quality and one percent for fish and wildlife enhancement. Most of the support for the dam has come from farmers downstream who have suffered flood damages in the past.

Four conservation groups--the Environmental Defense Funds, Inc., of New York; Ozark Society, Arkansas Audobon Society, and

the Arkansas Ecology Center--filed a lawsuit against the Corps, contending that the environmental impact statement as required by the National Environmental Protection Act (NEPA) of 1970, was not adequate. The Engineers felt that they were exempt from the stipulations of the NEPA, on this occasion, because construction of the dam was underway before the NEPA was passed.¹⁴

The Winter edition of the Ozark Society Bulletin states, "A definite need exists for a thorough restudy of water development plans for the Cossatot River. Congress should authorize such studies, not only by the Corps of Engineers which continues to push for completion of the project, but also by the Department of the Interior which was never afforded sufficient time to complete its original studies. Public hearings--never held in regard to this project--should be held. Construction of the Gillham Dam Project should be suspended pending the completion of studies and the holding of hearings. No real harm can come from the suspension of construction."

More than nine million dollars has already been spent on structures related to Gillham Dam, but a contract for the dam itself is being held in abeyance because of the lawsuit. So, the conservationists gained at least a temporary stoppage which is encouraging.

Governor Dale Bumpers, although he took no major stand during his campaign, expressed an interest in stream preservation just prior to his inauguration, and during his inauguration address. He stated "As I campaigned and went through some of those wilderness areas in north Arkansas and crossed some of those beautiful, shining, glistening streams, I realized those absolutely have to

be preserved . . . because they are just fantastic. They are such great assets to the state.''¹⁵

A new draft of a scenic rivers bill was written late in 1970 to be brought before the legislature in the 1971 session. This new bill stated that the Stream Preservation Committee will not have the power of eminent domain and must negotiate for either a scenic easement or title to the land. This was the point that caused the most violent opposition to the bill.¹⁶ Senator W. D. Moore of El Dorado again was the sponsor of the Scenic Rivers Bill in the Senate.

The bill went to the Senate Natural Resources Committee and received a 'do pass' recommendation by that committee. The bill virtually 'sailed' through the proper Senate committee and the Senate hearing, but was met with opposition when it was brought back to the Senate floor. To the dismay of the Stream Preservation Committee, Senator Carl Sorrels of Atkins introduced an amendment to have the Big Piney Creek removed from the Scenic Rivers Bill. Sorrels was under pressure from property owners along the Big Piney. Sorrels' amendment started a process which killed the bill. After his amendment, another stream was removed. The Senate then ran roughshod over the bill by introducing an amendment to include the Arkansas River in the bill, a strange paradox when one considers the number of reservoirs on the Arkansas.¹⁷ Joe Nix, chairman of the Stream Preservation Committee stated, 'I just don't think the people of Arkansas know what's at stake in this bill. If they did, they would ask their legislators to support the measure.''¹⁸

Governor Dale Bumpers still pledges to press for a Scenic Rivers Bill, although he did not make S. B. 94 a part of his

legislative package. At the Spring meeting (1971) of the Ozark Society, Governor Bumpers highlighted his speech with the announcement of his support of the Buffalo National River Bill.¹⁸

On the national level, at least one stream seems to be winning its right to remain in its natural state--the Buffalo River. In 1969, Senators J. W. Fulbright and John L. McClellan, both of Arkansas, introduced legislation to the Senate providing for the Buffalo National River. The hearing was set by Senator Alan Bible of Nevada, chairman of the Subcommittee on Parks and Recreation under the Committee on Interior and Insular Affairs of the Senate.¹⁹ The majority of testimonies given were in favor of the bill, with Mr. Fulbright, Mr. McClellan and Governor Rockefeller entering statements favoring the proposal. To quote Senator Bible: "I am sold on the preservation of great national river systems, and I believe we have to move quickly because the bulldozers are not far behind."²⁰

The Buffalo National River Bill passed the Senate the first time it was introduced, but in the House of Representatives, it faltered. Representative John Paul Hammerschmidt (Rep.-Ark.) introduced the legislation in the House, but it did not come to a vote before Congress' adjournment.

In January of 1971, again under the co-authorship of Senators McClellan and Fulbright, the Buffalo National River Bill was introduced. Again, many conservationists made the long trip from Arkansas to Washington to testify before Senator Bible's subcommittee on the bill. Again, the Senate passed the bill.

Representative Hammerschmidt introduced the bill in the House of Representatives in May, 1971. A hearing was set for

October of 1971 before the House Subcommittee on National Parks and Recreation. A vote on the proposal is expected early in 1972.

The Arkansas Parks, Recreation and Travel Commission voted to donate both Buffalo River State Park and Lost Valley State Park to the Federal Parks System when the federal legislation is approved. The donation was contingent on the federal government paying for capital improvements. This was a definite step forward in the struggle to obtain passage of the Buffalo National River Bill.²¹

By October of 1971, a new draft for an Arkansas Scenic Rivers Bill had been written, again with the hope of satisfying enough of the opponents of the bill while obtaining a piece of significant legislation.

The most recent development in the area of stream preservation is the Cache River controversy. The Corps of Engineers proposed a project at the cost of **sixty** million dollars, consisting of the dredging, clearing and realigning of about 140 miles of the Cache River Channel. Also, about fifteen miles of the Cache's upper tributaries and seventy-seven miles of Bayou DeView, the Cache's principle tributary.²²

A lawsuit was filed against the Engineers by conservation groups including the Arkansas Ecology Center, the Arkansas Wildlife Federation, the Arkansas Duck Hunting Association, and the Arkansas Game and Fish Commission. The suit says that the project will turn 231 miles of streams into ''ditches'', lower the water table in the area, result in the unnecessary clearing of 170,000 acres of hardwood timberlands for the creation of unneeded

agricultural land, aggravate flooding conditions on the lower reaches of the streams, and spoil the streams with added siltation and runoff on farms.²³

Richard S. Arnold, attorney for the plaintiffs, filed a motion asking for a temporary injunction against the Engineers. He said this was done to keep the Engineers from proceeding with the project before the trial was started.²⁴ Mr. Arnold is the attorney who obtained the injunction against the Engineers on the Cassatot River (Gillham Dam) Project, and has quickly become Arkansas' foremost environmental lawyer.

The Cache River Project would destroy not only the stream and hardwood timber, but the natural habitat of many wildlife species as well.

Stream Preservation in Arkansas has suffered many setbacks, but has also experienced some significant gains. The most outstanding of these being, of course, the Buffalo National River, which seems likely to pass the House of Representatives early next year.

Many people have been instrumental in the movement, and have devoted their time and energies to the concept of stream preservation. The author would be at a loss to mention all the names involved, but one man may perhaps be considered to be the initial force behind what the movement is today. This man is Harold Alexander of Conway. For a number of years, Mr. Alexander lived in Kentucky and wrote many articles about preserving streams in their natural state, educating many people to the problem. He is an accomplished biologist and combines academic excellence and good journalism in his articles. He moved to Arkansas and worked

a number of years for the Arkansas Game and Fish Commission. Mr. Alexander is very much responsible for educating many of whom make up the crux of the Stream Preservation Movement in Arkansas.

It seems that Arkansas' greatest gains in the area of stream preservation have been made on a national level. But the State Committee on Stream Preservation still hopes for action by the Arkansas State Legislature providing for an Arkansas Scenic Rivers System.

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